

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LESTER LEE JAVIER,

Plaintiff,

-against-

MARISSA TEVES BECK, ET AL.,

Defendants.

13-cv-02926 (WHP)

**ANSWER TO AMENDED COMPLAINT**

Defendants Marissa Beck, Henry Beck, Pan De Sal LLC ("Pan de Sal"), Gramercy Park Salon & Spa, Inc. ("Gramercy Salon"), Advanced Professional Marketing, Inc. ("APMI"), Medical Dynamic Systems, Inc. ("MDSI"), Oasis Professional Management Group, Inc. ("Oasis"), and Grill 21 LLC ("Grill 21") (collectively, the "Defendants"), by their attorneys, Hinshaw & Culbertson LLP, as and for their Answer to the Amended Complaint (the "Complaint"), respond as follows:

1. Deny the allegations contained in Paragraph 1 of the Complaint, except admit that plaintiff purports to proceed as alleged.
2. Deny the allegations contained in Paragraph 2 of the Complaint, except admit that the U.S. Department of Labor issued a determination letter in 2008 and respectfully refer the Court to the contents of the determination letter for a true and accurate recitation of its contents.
3. Deny the allegations contained in Paragraph 3 of the Complaint, except admit that the Court entered a permanent injunction in 2009 and respectfully refer to the Court to the permanent injunction for a true and accurate recitation of its contents.
4. Deny the allegations contained in Paragraph 4 of the Complaint.

5. Deny the allegations contained in Paragraphs 5, and all subparts of Paragraphs 5(a) through 5(j).

6. Deny the allegations contained in Paragraph 6 of the Complaint.

7. Deny the allegations contained in Paragraph 7 of the Complaint, except admit that the corporate defendants herein filed applications for H-1B visas.

8. Deny the allegations contained in Paragraph 8 of the Complaint, except admit that plaintiff worked for brief periods at defendant Grill 21.

9. Deny the allegations contained in Paragraph 9 of the Complaint.

#### **JURISDICTION AND VENUE**

10. Deny the allegations contained in Paragraph 10 of the Complaint, except admit that plaintiff purports to invoke the jurisdiction of this Court.

11. Deny the allegations contained in Paragraph 11 of the Complaint, except admit that plaintiff purports to invoke the venue of this Court.

#### **THE PARTIES**

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint with respect to plaintiff; except admit that plaintiff applied to defendants for work and deny the remaining allegations contained in Paragraph 12 of the Complaint.

13. Deny the allegations contained in Paragraph 13 of the Complaint, except admit that defendant Marissa Beck is an owner of defendant Pan De Sal.

14. Admit that defendant Henry Beck is a licensed associate real estate broker with the Corcoran Group and husband to defendant Marissa Beck. Admit that defendant Henry Beck is an owner and officer of defendant MDSI. Deny that defendant Henry Beck is an owner of

defendant Pan De Sal and deny the remaining allegations contained in Paragraph 14 of the Complaint.

15. Admit the allegations contained in Paragraph 15 of the Complaint, except deny that defendant Marissa Beck owned and/or controlled MDSI.

16. Admit the allegations contained in Paragraph 16 of the Complaint, except deny that Marissa Beck owned and/or controlled Oasis.

17. Admit the allegations contained in Paragraph 17 of the Complaint, except deny that Henry Beck owned and/or controlled APMI.

18. Admit the allegations contained in Paragraph 18 of the Complaint, except deny that defendant Marissa Beck owned and/or controlled Grill 21.

19. Admit the allegations contained in Paragraph 19 of the Complaint, except deny that defendant Henry Beck owned and/or controlled Pan de Sal.

20. Admit the allegations contained in Paragraph 20 of the Complaint

#### **STATEMENT OF CLAIMS**

21. Deny the allegations contained in Paragraph 21 of the Complaint and respectfully refer the Court to the 2011 contract for a full and accurate recitation of its contents.

22. Deny the allegations contained in Paragraph 22 of the Complaint and respectfully refer the Court to the 2011 contract for a full and accurate recitation of its contents.

23. Paragraph 23 of the Complaint contains a legal conclusion and defendants respectfully refer all questions of law to the Court.

24. Paragraph 24 of the Complaint contains a legal conclusion and defendants respectfully refer all questions of law to the Court.

25. Deny the allegations contained in Paragraph 25 of the Complaint and respectfully refer the Court to the 2011 contract for a full and accurate recitation of its contents.

26. Paragraph 26 of the Complaint contains legal conclusions and defendants respectfully refer all questions of law to the Court.

27. Paragraph 27 of the Complaint contains legal conclusions and defendants respectfully refer all questions of law to the Court.

**A. The Becks Breach the Contract, Violate the FLSA and Immigration Laws, and Demonstrate their Contempt for This Court's Permanent Injunction**

28. Deny the allegations contained in Paragraph 28 of the Complaint.

29. Deny the allegations contained in Paragraph 29 of the Complaint.

30. Deny the allegations contained in Paragraph 30 of the Complaint.

31. Deny the allegations contained in Paragraph 31 of the Complaint and respectfully refer the Court to the documents mentioned therein for a full and accurate recitation of their contents.

32. Deny the allegations contained in Paragraph 32 of the Complaint.

33. Deny the allegations contained in Paragraph 33 of the Complaint.

34. Deny the allegations contained in Paragraph 34 of the Complaint.

35. Deny the allegations contained in Paragraph 35 of the Complaint and respectfully refer the Court to the permanent injunctions for a full and accurate recitation of its content.

**B. The Becks Breach the Contract and Violate the Immigration Laws by Committing Immigration Fraud**

36. Admit the allegations contained in Paragraph 36 of the Complaint and defendants respectfully refer the Court to the document cited herein for a full and accurate recitation of its contents.

37. Paragraph 37 contains legal conclusions and defendants respectfully refer all questions of law to the Court, defendants deny the allegations contained in Paragraph 37 of the Complaint and respectfully refer the Court to the document cited herein for a full and accurate recitation of its contents.

38. Deny the allegations contained in Paragraph 38 of the Complaint and respectfully refer the Court to the documents cited therein for a full and accurate recitation of their contents.

39. Deny the allegations contained in Paragraph 39 of the Complaint and respectfully refer all questions of law to the Court.

40. Deny the allegations contained in Paragraph 40 of the Complaint.

41. Deny the allegations contained in Paragraph 41 of the Complaint.

**C. The Becks threatened and (sic) Actual Retaliation in Violation of the Trafficking Victims' Protection Act and Immigration Laws**

42. Deny the allegations contained in Paragraph 42 of the Complaint.

43. Deny the allegations contained in Paragraph 43 of the Complaint.

44. Deny the allegations contained in Paragraph 44 of the Complaint.

45. Deny the allegations contained in Paragraph 45 of the Complaint.

46. Deny the allegations contained in Paragraph 46 of the Complaint.

**D. The Becks' Continuous Pattern of Fraudulent Conduct in Furtherance of Their Illegal Scheme to Profit at the expense of non-Immigrant Employees**

47. Deny the allegations contained in Paragraph 47 of the Complaint.

48. Deny the allegations contained in Paragraph 48 of the Complaint and respectfully refer the Court to the documents cited there for a full and accurate recitation of their contents.

49. Deny the allegations contained in Paragraph 49 of the Complaint and respectfully refer the Court to the 2009 Contract for a full and accurate recitation of its contents.

50. Deny the allegations contained in Paragraph 50 of the Complaint.

51. Deny the allegations contained in Paragraph 51 of the Complaint and respectfully refer the Court to the documents cited therein for a full and accurate recitation of their contents.

52. Deny the allegations contained in Paragraph 52 of the Complaint and respectfully refer the Court to the document cited therein for a full and accurate recitation of its contents.

53. Deny the allegations contained in Paragraph 53 of the Complaint and respectfully refer the Court to the document cited therein for a full and accurate recitation of its contents.

54. Deny the allegations contained in Paragraph 54 of the Complaint and respectfully refer the Court to the document cited therein for a full and accurate recitation of its contents.

55. Deny the allegations contained in Paragraph 55 of the Complaint.

56. Deny the allegations contained in Paragraph 56 of the Complaint and respectfully refer the Court to the letter for a full and accurate recitation of its contents.

57. Deny the allegations contained in Paragraph 57 of the Complaint and respectfully refer the Court to the documents cited therein for a full and accurate recitation of their contents.

58. Deny knowledge or information sufficient to form a belief as to the truth of the allegations pertaining to the actions of the Social Security Administration and deny the remaining allegations contained in Paragraph 58 of the Complaint.

59. Deny the allegations contained in Paragraph 59 of the Complaint.

60. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of the Complaint.

61. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of the Complaint.

62. Deny the allegations contained in Paragraph 62 of the Complaint.

63. Deny the allegations contained in Paragraph 63 of the Complaint.

64. Deny the allegations contained in Paragraph 64 of the Complaint.

**E. The Becks Deprive Plaintiff of His Notice,  
Compensation and Repatriation Rights Under Federal Law**

65. Denies the allegations contained in Paragraph 65 of the Complaint, except admit that defendant Marissa Beck spoke directly with plaintiff about returning to work.

66. Deny the allegations contained in Paragraph 66 of the Complaint.

67. Deny the allegations contained in Paragraph 67 of the Complaint.

68. Deny the allegations contained in Paragraph 68 of the Complaint.

69. Deny the allegations contained in Paragraph 69 of the Complaint.

70. Deny the allegations contained in Paragraph 70 of the Complaint.

71. Deny the allegations contained in Paragraph 71 of the Complaint and respectfully refer the Court to the letter cited therein for a full and accurate recitation of its contents.

72. Deny the allegations contained in Paragraph 72 of the Complaint.

73. Paragraph 73 of the Complaint contains legal conclusion and defendants respectfully refer all questions of law to the Court.

74. Admit the allegation contained in Paragraph 74 of the Complaint; except deny that defendants were required to provide such notice as plaintiff abandoned his employment with MDSI.

75. Deny the allegation contained in Paragraph 75 of the Complaint.

76. Admit the allegation contained in Paragraph 76 of the Complaint; except deny that defendants were required to provide reasonable costs of transportation for plaintiff to return to the Philippines as defendants did not recruit plaintiff from outside the United States of America.

77. Deny the allegations contained in Paragraph 77 of the Complaint and respectfully refer all questions of law to the Court.

**FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS  
FOR VIOLATIONS OF THE FAIR LABOR STANDARDS ACT (FLSA)**

78. Repeat and re-allege the responses contained in Paragraphs 1 through 77 above as if fully set forth herein.

79. Paragraph 79 of the Complaint states a legal conclusion and defendants respectfully refer all questions of law to the Court.

80. Paragraph 80 of the Complaint states a legal conclusion and defendants respectfully refer all questions of law to the Court.

81. Paragraph 81 of the Complaint states a legal conclusion and defendants respectfully refer all questions of law to the Court.

82. Paragraph 82 of the Complaint states a legal conclusion and defendants respectfully refer all questions of law to the Court.

83. Deny the allegations contained in Paragraph 83 of the Complaint; except admit that plaintiff was an employee of MDSI.

84. Deny the allegations contained in Paragraph 84 of the Complaint.

85. Deny the allegations contained in Paragraph 85 of the Complaint.

86. Admit the allegations contained in Paragraph 86 of the Complaint; except deny that defendants were legally required to pay plaintiff for time he spent on activities defendants did not order plaintiff to perform and of which they were unaware and for which defendants derived no benefit.

87. Deny the allegations contained in Paragraph 87 of the Complaint.

88. Deny the allegations contained in Paragraph 88 of the Complaint.



89. Deny the allegations contained in Paragraph 89 and subparts (a) through (m) of the Complaint.

90. Deny the allegations contained in Paragraph 90 of the Complaint and refer all questions of law to the Court.

**SECOND CLAIM FOR RELIEF AGAINST ALL DEFENDANTS  
FOR VIOLATION OF THE TRAFFICKING VICTIMS  
PROTECTIONS ACT (TVPA)**

91. Repeat and re-allege the responses contained Paragraphs 1 through 90 above as if fully set forth herein.

92. Deny the allegations contained in Paragraph 92 of the Complaint.

93. Deny the allegations contained in Paragraph 93 of the Complaint.

94. Deny the allegations contained in Paragraph 94 of the Complaint.

95. Deny the allegations contained in Paragraph 95 of the Complaint.

96. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contains in Paragraph 96 of the Complaint.

97. Deny the allegations contained in Paragraph 97 of the Complaint.

98. Deny the allegations contained in Paragraph 98 of the Complaint.

99. Deny the allegations contained in Paragraph 99 of the Complaint.

100. Paragraph 100 of the Complaint contains legal conclusions and all questions of law are referred to the Court; defendants deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 100.

101. Deny the allegations contained in Paragraph 101 of the Complaint.

102. Deny the allegations contained in Paragraph 102 of the Complaint.

103. Deny the allegations contained in Paragraph 103 of the Complaint.

104. Deny the allegations contained in Paragraph 104 of the Complaint.

105. Paragraph 105 contains legal conclusions and all questions of law are referred to the Court; defendants deny the allegations contained in Paragraph 105 of the Complaint.

106. Paragraph 106 contains legal conclusions and all questions of law are referred to the Court. Defendants deny the allegations contained in Paragraph 106 of the Complaint.

**THIRD CLAIM FOR RELIEF AGAINST ALL DEFENDANTS  
FOR VIOLATION OF THE RACKETEER INFLUENCED AND  
CORRUPT ORGANIZATIONS ACT (RICO) 18 U.S.C. § 1962(c)**

107. Repeat and re-allege the responses contained in Paragraphs 1 through 106 above as if fully set forth herein.

108. Paragraph 108 contains a legal conclusion and all questions of law are referred to the Court.

109. Paragraph 109 contains a legal conclusion and all questions of law are referred to the Court.

**A. The RICO Enterprise**

110. Deny the allegations contained in Paragraph 110 of the Complaint.

111. Deny the allegations contained in Paragraph 111 of the Complaint.

112. Deny the allegations contained in Paragraph 112 of the Complaint, including all subparts (a) through (d).

113. Deny the allegations contained in Paragraph 113 of the Complaint.

114. Deny the allegations contained in Paragraph 114 of the Complaint.

115. Deny the allegations contained in Paragraph 115 of the Complaint.

116. Deny the allegations contained in Paragraph 116 of the Complaint.

117. Deny the allegations contained in Paragraph 117 of the Complaint.

**B. The Predicate Acts**

118. Deny the allegations contained in Paragraph 118 of the Complaint.

**(i) Predicate Acts: Forced Labor in Violation of 18 U.S.C. § 1589**

119. Deny the allegations contained in Paragraph 119 of the Complaint.

120. Deny the allegations contained in Paragraph 120 of the Complaint.

121. Deny the allegations contained in Paragraph 121 of the Complaint.

122. Deny the allegations contained in Paragraph 122 of the Complaint.

123. Deny the allegations contained in Paragraph 123 of the Complaint.

124. Deny the allegations contained in Paragraph 124 of the Complaint.

125. Deny the allegations contained in Paragraph 125 of the Complaint.

126. Deny the allegations contained in Paragraph 126 of the Complaint and Paragraph

126 contains legal conclusions and all questions of law are referred to the Court.

**(ii) Predicate Act: Trafficking in Persons with  
Respect to Forced Labor in Violation of 18 U.S.C. § 1590**

127. Deny the allegations contained in Paragraph 127 of the Complaint.

128. Deny the allegations contained in Paragraph 128 of the Complaint.

129. Deny the allegations contained in Paragraph 129 of the Complaint.

130. Deny the allegations contained in Paragraph 130 of the Complaint and Paragraph

130 contains legal conclusions and all questions of law are referred to the Court.

**(iii) Predicate Acts: Conspiracy to Prevent Plaintiff from  
Exercising His 13<sup>th</sup> Amendment Right in Violation of 18 U.S.C. § 241**

131. Paragraph 131 contains a legal conclusion and all questions of law are referred to the Court.

132. Deny the allegations contained in Paragraph 132 of the Complaint.

133. Deny the allegations contained in Paragraph 133 of the Complaint.

134. Deny knowledge or information sufficient to form a belief as to the truth of the allegation contained in Paragraph 134.

135. Paragraph 135 contains legal conclusions and questions of law are referred to the Court.

**(iv) Predicate Acts: Knowingly Holding Employees  
in Involuntary Servitude in Violation of 18 U.S.C. § 1584**

136. Deny the allegations contained in Paragraph 136 of the Complaint.

**(v) Predicate Act: Fraud in Connection with  
Foreign Contract in Violation of 18 U.S.C. § 1351(a)**

137. Deny the allegations contained in Paragraph 137 of the Complaint.

138. Deny the allegations contained in Paragraph 138 of the Complaint, including all subparts (a) through (h).

139. Deny the allegations contained in Paragraph 139 of the Complaint.

140. Deny the allegations contained in Paragraph 140 of the Complaint.

141. Deny the allegations contained in Paragraph 141 and refer all questions of law to the Court.

**(vi) Predicate Acts: Immigration Fraud in Violation of 18 U.S.C. § 1546**

142. Deny the allegations contained in Paragraph 142 of the Complaint.

143. Deny the allegations contained in Paragraph 143 of the Complaint.

144. Deny the allegations contained in Paragraph 144 of the Complaint.

145. Deny the allegations contained in Paragraph 145 and refer all questions of law to the Court.

**(vii) Predicate Acts: False Statements in Connection  
with the Social Security Laws in Violation of 42 U.S.C. § 1383a**

146. Deny the allegations contained in Paragraph 146 of the Complaint.

147. Deny the allegations contained in Paragraph 147 of the Complaint.

148. Deny the allegations contained in Paragraph 148 of the Complaint and refer all questions of law to the Court.

**(viii) Predicate Acts: Mail Fraud and Wire  
Fraud in Violation of 18 U.S.C. §§ 1341 and 1343**

149. Deny the allegations contained in Paragraph 149 of the Complaint.

150. Deny the allegations contained in Paragraph 150 of the Complaint.

151. Deny the allegations contained in Paragraph 151 of the Complaint.

152. Deny the allegations contained in Paragraph 152 of the Complaint and all subparts (a) through (l).

153. Deny the allegations contained in Paragraph 153 and refer all questions of law to the Court.

**(ix) Predicate Acts: Extortion in  
Violation of New York Penal Law §155.05(2)(e)**

154. Deny the allegations contained in Paragraph 154 of the Complaint.

155. Deny the allegations contained in Paragraph 155 of the Complaint.

156. Deny the allegations contained in Paragraph 156 of the Complaint.

157. Deny the allegations contained in Paragraph 157 of the Complaint.

158. Deny the allegations contained in Paragraph 158 of the Complaint.

159. Deny the allegations contained in Paragraph 159 of the Complaint.

160. Deny the allegations contained in Paragraph 160 of the Complaint.

161. Deny the allegations contained in Paragraph 161 of the Complaint.

162. Deny the allegations contained in Paragraph 162 of the Complaint.

163. Deny the allegations contained in Paragraph 163 of the Complaint.

- 164. Deny the allegations contained in Paragraph 164 of the Complaint.
- 165. Deny the allegations contained in Paragraph 165 of the Complaint.
- 166. Deny the allegations contained in Paragraph 166 of the Complaint.
- 167. Deny the allegations contained in Paragraph 167 of the Complaint.
- 168. Deny the allegations contained in Paragraph 168 of the Complaint.
- 169. Deny the allegations contained in Paragraph 169 of the Complaint.
- 170. Deny the allegations contained in Paragraph 170 of the Complaint.
- 171. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 171 of the Complaint.
- 172. Deny the allegations contained in Paragraph 172 of the Complaint and refer all questions of law to the Court.
- 173. Deny the allegations contained in Paragraph 173 of the Complaint and refer all questions of law to the Court.

**C. Pattern of Related Racketeering Acts**

- 174. Deny the allegations contained in Paragraph 174 of the Complaint.
- 175. Deny the allegations contained in Paragraph 175 of the Complaint.
- 176. Deny the allegations contained in Paragraph 176 of the Complaint.
- 177. Deny the allegations contained in Paragraph 177 of the Complaint.
- 178. Deny the allegations contained in Paragraph 178 of the Complaint.
- 179. Deny the allegations contained in Paragraph 179 of the Complaint.
- 180. Deny the allegations contained in Paragraph 180 of the Complaint.
- 181. Deny the allegations contained in Paragraph 181 of the Complaint.
- 182. Deny the allegations contained in Paragraph 182 of the Complaint.

**D. Injury**

183. Deny the allegations contained in Paragraph 183 of the Complaint.

184. Paragraph 184 of the Complaint contained legal conclusions and all questions of law are referred to the Court.

**FOURTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS  
FOR VIOLATIONS OF THE RACKETEER INFLUENCED AND  
CORRUPT ORGANIZATIONS ACT (RICO) 18 U.S.C. § 1962(d)**

185. Repeat and re-allege the responses contained in Paragraphs 1 through 184 above as if fully set forth herein.

186. Deny the allegations contained in Paragraph 186 of the Complaint.

187. Deny the allegations contained in Paragraph 187 of the Complaint, including all subparts (a) through (d).

188. Deny the allegation contained in Paragraph 188 of the Complaint.

189. Deny the allegations contained in Paragraph 189 of the Complaint.

190. Deny the allegations contained in Paragraph 190 of the Complaint.

191. Deny the allegations contained in Paragraph 191 of the Complaint.

192. Deny the allegations contained in Paragraph 192 of the Complaint.

193. Deny the allegations contained in Paragraph 193 of the Complaint.

194. Deny the allegations contained in Paragraph 194 of the Complaint.

195. Deny the allegations contained in Paragraph 195 of the Complaint.

196. Deny the allegations contained in Paragraph 196 of the Complaint.

197. Deny the allegations contained in Paragraph 197 of the Complaint.

198. Deny the allegations contained in Paragraph 198 of the Complaint.

199. Deny the allegations contained in Paragraph 199 of the Complaint.

200. Deny the allegations contained in Paragraph 200 of the Complaint and refer all questions of law to the Court.

**FIFTH CLAIM FOR RELIEF AGAINST ALL  
DEFENDANTS FOR BREACH OF THE 2009 CONTRACT**

201. Repeat and re-allege the responses contained in Paragraphs 1 through 200 above as if fully set forth herein.

202. Deny the allegations contained in Paragraph 202 of the Complain, except admit and defendant MDSI and plaintiff signed an employment contract in 2009.

203. Deny the allegations contained in Paragraph 203, except admit that a 2009 contract exists and the document speaks for itself.

204. Deny the allegations contained in Paragraph 204 of the Complaint.

205. Deny the allegations contained in Paragraph 205 of the Complaint.

206. Admit the allegations in Paragraph 206 with respect to plaintiff being an employee of MDSI and MDSI had the right to assign plaintiff to work at third party facilities and deny the remaining allegations contained in Paragraph 206 of the Complaint.

207. Deny the allegations contained in Paragraph 207 of the Complaint.

208. Deny the allegations contained in Paragraph 208 of the Complaint.

209. Deny the allegations contained in Paragraph 209 of the Complaint.

210. Deny the allegations contained in Paragraph 210 of the Complaint.

211. Deny the allegations contained in Paragraph 211 of the Complaint.

212. Deny the allegations contained in Paragraph 212 of the Complaint.

213. Deny the allegations contained in Paragraph 213 of the Complaint.

214. Deny the allegations contained in Paragraph 214 of the Complaint.

215. Deny the allegations contained in Paragraph 215 of the Complaint.



216. Deny the allegations contained in Paragraph 216 of the Complaint.

217. Deny the allegations contained in Paragraph 217 of the Complaint.

218. Deny the allegations contained in Paragraph 218 of the Complaint.

**SIXTH CLAIM FOR RELIEF AGAINST ALL  
DEFENDANTS FOR BREACH OF THE 2011 CONTRACT**

219. Repeat and re-allege the response contained in Paragraphs 1 through 218 above as if fully set forth herein.

220. Deny the allegations contained in Paragraph 220 of the Complaint, except admit that plaintiff and defendant MDSI signed an employment contract in 2011.

221. Deny the allegations contained in Paragraph 221 of the Complaint and state that the 2011 contract speaks for itself and respectfully refer the Court the 2011 contract for a full and accurate recitation of its contents.

222. Deny the allegations contained in Paragraph 222 of the Complaint.

223. Deny the allegations contained in Paragraph 223 of the Complaint.

224. Admit the allegations in Paragraph 224 with respect to plaintiff being an employee of MDSI and MDSI had the right to assign plaintiff to work at third party facilities and deny the remaining allegations contained in Paragraph 224 of the Complaint.

225. Deny the allegations contained in Paragraph 225 of the Complaint.

226. Deny the allegations contained in Paragraph 226 of the Complaint.

227. Deny the allegations contained in Paragraph 227 of the Complaint.

228. Deny the allegations contained in Paragraph 228 of the Complaint.

229. Deny the allegations contained in Paragraph 229 of the Complaint.

230. Deny the allegations contained in Paragraph 230 of the Complaint.

231. Deny the allegations contained in Paragraph 231 of the Complaint.

- 232. Deny the allegations contained in Paragraph 232 of the Complaint.
- 233. Deny the allegations contained in Paragraph 233 of the Complaint.
- 234. Deny the allegations contained in Paragraph 234 of the Complaint.
- 235. Deny the allegations contained in Paragraph 235 of the Complaint.
- 236. Deny the allegations contained in Paragraph 236 of the Complaint.
- 237. Deny the allegations contained in Paragraph 237 of the Complaint.

**SEVENTH CLAIM FOR RELIEF  
AGAINST ALL DEFENDANTS FOR FRAUD**

238. Repeat and re-allege the responses contained in Paragraphs 1 through 237 above as if fully set forth herein.

- 239. Deny the allegations contained in Paragraph 239 of the Complaint.
- 240. Deny the allegations contained in Paragraph 240 of the Complaint, including all subparts (a) through (l).

- 241. Deny the allegations contained in Paragraph 241 of the Complaint.
- 242. Deny the allegations contained in Paragraph 242 of the Complaint.
- 243. Deny the allegations contained in Paragraph 243 of the Complaint.
- 244. Deny the allegations contained in Paragraph 244 of the Complaint.
- 245. Deny the allegations contained in Paragraph 245 of the Complaint.
- 246. Deny the allegations contained in Paragraph 246 of the Complaint.

**EIGHTH CLAIM FOR RELIEF AGAINST  
ALL DEFENDANTS FOR UNJUST ENRICHMENT**

247. Repeat and re-allege the response contained in Paragraphs 1 through 246 above as if fully set forth herein.

- 248. Deny the allegations contained in Paragraph 248 of the Complaint.

249. Deny the allegations contained in Paragraph 249 of the Complaint.

250. Deny the allegations contained in Paragraph 250 of the Complaint.

251. Deny the allegations contained in Paragraph 251 of the Complaint and refer all questions of law to the Court.

**NINTH CLAIM FOR RELIEF AGAINST  
ALL DEFENDANTS FO UNJUST ENRICHMENT**

252. Repeat and re-allege the responses contained in Paragraph 1 through 251 above as if fully set forth herein.

253. Deny the validity of the 2009 contract and deny knowledge or information sufficient to form a belief as to the truth of the allegation pertaining to plaintiff's belief as stated in Paragraph 253 of the Complaint and refer all questions of law to the Court.

254. Deny the allegations contained in Paragraph 254 of the Complaint.

255. Deny the allegation contained in Paragraph 255 of the Complaint.

256. Deny the allegation contained in Paragraph 256 of the Complaint.

257. Deny the allegation contained in Paragraph 257 of the Complaint.

**TENTH CLAIM FOR RELIEF AGAINST  
ALL DEFENDANTS FOR UNJUST ENRICHMENT**

258. Repeat and re-allege the responses contained in Paragraphs 1 through 257 above as if fully set forth herein.

259. Deny the validity of the 2011 contract and deny knowledge or information sufficient to form a belief as to the truth of the allegation pertaining to plaintiff's belief as stated in Paragraph 259 of the Complaint and refer all questions of law to the Court.

260. Deny the allegations contained in Paragraph 260 of the Complaint.

261. Deny the allegations contained in Paragraph 261 of the Complaint.

262. Deny the allegations contained in Paragraph 262 of the Complaint.

263. Deny the allegations contained in Paragraph 263 of the Complaint and refer all questions of law to the Court.

**ELEVENTH CLAIM FOR RELIEF AGAINST  
DEFENDANTS MARISSA BECK, HENRY BECK, APMI,  
OASIS, GRILL 21, AND PAN DE SAL FOR QUANTUM MERUIT**

264. Repeat and re-allege the responses contained in Paragraphs 1 through 263 above as if fully set forth herein.

265. Deny the allegations contained in Paragraph 265 of the Complaint.

266. Deny the allegations contained in Paragraph 266 of the Complaint.

267. Deny the allegations contained in Paragraph 267 of the Complaint.

268. Deny the allegations contained in Paragraph 268 of the Complaint.

269. Deny the allegations contained in Paragraph 269 of the Complaint.

270. Deny the allegations contained in Paragraph 270 of the Complaint.

**TWELFTH CLAIM FOR RELIEF AGAINST  
ALL DEFENDANTS FOR QUANTUM MERUIT**

271. Repeat and re-allege the responses contained in Paragraphs 1 through 270 above as if fully set forth herein.

272. Deny the validity of the 2009 contract and deny knowledge or information sufficient to form a belief as to the truth of the allegation pertaining to plaintiff's belief as stated in Paragraph 272 of the Complaint and refer all questions of law to the Court.

273. Deny the allegations contained in Paragraph 273 of the Complaint.

274. Deny the allegations contained in Paragraph 274 of the Complaint

275. Deny the allegations contained in Paragraph 275 of the Complaint.

276. Deny the allegations contained in Paragraph 276 of the Complaint,

277. Deny the allegations contained in Paragraph 277 of the Complaint and refer all questions of law to the Court.

278. Deny the allegations contained in Paragraph 278 of the Complaint.

**THIRTEENTH CLAIM FOR RELIEF AGAINST  
ALL DEFENDANTS FOR QUANTUM MERUIT**

279. Repeat and re-allege the responses contained in Paragraphs 1 through 278 above as if fully set forth herein.

280. Deny the validity of the 2011 contract and deny knowledge or information sufficient to form a belief as to the truth of the allegation pertaining to plaintiff's belief as stated in Paragraph 280 of the Complaint and refer all questions of law to the Court.

281. Deny the allegations contained in Paragraph 281 of the Complaint.

282. Deny the allegations contained in Paragraph 282 of the Complaint.

283. Deny the allegations contained in Paragraph 283 of the Complaint.

284. Deny the allegations contained in Paragraph 284 of the Complaint.

285. Deny the allegations contained in Paragraph 285 of the Complaint.

286. Deny the allegations contained in Paragraph 286 of the Complaint.

**JURY DEMAND**

287. Deny the allegation contained in Paragraph 287 of the Complaint and refer all questions of law to the Court.

WHEREFORE, Defendants respectfully request that judgment be entered dismissing the Complaint and awarding them costs, fees, disbursements, and such other and further relief as is just and proper.

**FIRST AFFIRMATIVE DEFENSE**

288. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

289. Defendants' acts were undertaken in good faith without reckless disregard for Plaintiff's statutory rights and in compliance with and reliance on applicable laws, rules, regulations, rulings, approvals, interpretations, and orders.

**THIRD AFFIRMATIVE DEFENSE**

290. Plaintiff's claims are barred to the extent that he was not employed by some of the Corporate Defendants.

**FOURTH AFFIRMATIVE DEFENSE**

291. Defendants did not act as a single employer towards Plaintiff.

**FIFTH AFFIRMATIVE DEFENSE**

292. Defendants were not a joint employer of Plaintiff.

**SIXTH AFFIRMATIVE DEFENSE**

293. Plaintiff's claims are barred in whole or part based on his failure to mitigate damages.

**SEVENTH AFFIRMATIVE DEFENSE**

294. Plaintiff's recovery is barred by the doctrines of waiver, estoppel, and/or unclean hands.

**EIGHTH AFFIRMATIVE DEFENSE**

295. Plaintiff's claims are barred by the applicable statute of limitations.

**NINTH AFFIRMATIVE DEFENSE**

296. Plaintiff's claims are barred in whole or part because he was paid in accordance with applicable laws.

**TENTH AFFIRMATIVE DEFENSE**

297. The damages allegedly suffered by Plaintiff, if any (which injuries and damages are specifically denied by Defendants), were caused in whole or party, or were exacerbated by, the negligence and/or culpable conduct of plaintiff and, accordingly, Plaintiff's claims against defendants are barred or diminished in the proportion that such negligence and culpable conduct bears to the total culpable conduct causing the alleged damages.

**ELEVENTH AFFIRMATIVE DEFENSE**

298. Plaintiff's claims are barred by reason of his own negligence, willful conduct, culpable conduct, acquiescence, recklessness, fraud, deceit, misrepresentation, consent, approval and ratification.

**TWELFTH AFFIRMATIVE DEFENSE**

299. Plaintiff sustained no damages as a result of Defendants' allegedly actionable conduct.

**THIRTEENTH AFFIRMATIVE DEFENSE**

300. Defendants did not breach the 2009 and 2011 employment contracts.

**FOURTEENTH AFFIRMATIVE DEFENSE**

301. Plaintiff's claims are barred to the extent that Plaintiff failed to satisfy the conditions precedent set forth in the 2009 and 2011 employment contracts.

**FIFTEENTH AFFIRMATIVE DEFENSE**

302. In the alternative, if the 2009 and/or the 2011 employment contracts are deemed enforceable, plaintiff failed to perform under the 2009 and 2011 employment contracts, by failing to obtain the required licenses.

**SIXTEENTH AFFIRMATIVE DEFENSE**

303. Plaintiff's complaint fails to plead the so-called predicate acts of mail fraud, wire fraud, scheme to defraud, and extortion with particularity.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

304. Insofar as it purports to state a claim pursuant to 18 U.S.C. § 1961 et seq. (hereinafter "RICO"), the complaint fails to demonstrate that a "pattern" of racketeering activity has occurred.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

305. Insofar as it purports to state a claim pursuant to RICO § 1962(c), the complaint fails to demonstrate that the defendants had conducted or participated in the affairs of an enterprise "through" a pattern of racketeering activity.

**NINETEENTH AFFIRMATIVE DEFENSE**

306. Plaintiff's action is barred because these answering defendants have not suffered a previous conviction for any predicate act alleged in the complaint or under RICO itself.

**TWENTIETH AFFIRMATIVE DEFENSE**

307. Plaintiff's action is barred as it has neither been alleged nor demonstrated that mailings were made "for the purpose of executing the scheme to defraud". 18 U.S.C. § 1341, et seq.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

308. To the extent that plaintiff's action is grounded in the predicate acts of mail fraud and wire fraud, it is barred as "reliance" has not been demonstrated.



**TWENTY-SECOND AFFIRMATIVE DEFENSE**

309. To the extent that plaintiff's action is grounded in the predicate acts of mail fraud and wire fraud, it is barred as "scienter" has not been demonstrated.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

310. To the extent that plaintiff's action is grounded in the predicate of "extortion" or "scheme to defraud" under state law, it is barred as each and every element necessary to the proof thereof has not been demonstrated.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

311. To the extent that plaintiff's action is grounded in the predicate act of a federal "mail fraud", it is barred as each and every statutory element necessary to the proof of such crime has not been demonstrated.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

312. To the extent that plaintiff's action is grounded in the predicate act of a federal "wire fraud", it is barred as each and every statutory element necessary to the proof of such crime has not been demonstrated.

**TWENTY-SIX AFFIRMATIVE DEFENSE**

313. Plaintiff failed to plead the required elements of a civil RICO violation, including, but not limited to: both factual and proximate cause; that Plaintiff was the intended target of RICO violations; that any alleged RICO injury was preconceived for the purpose of RICO activities; Plaintiff detrimental and justifiable reliance on Defendant's alleged misrepresentations; and the required predicate acts to satisfy a RICO claim.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

314. Defendants did not violate the TVPA.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

315. Plaintiff's claims pursuant to the TVPA are barred by plaintiff's own deposition testimony.

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

316. Plaintiff fails to allege the requisite elements to sustain a TVPA claim.

WHEREFORE, Defendants respectfully request that:

- a. The Court dismiss the Complaint in its entirety with prejudice;
- b. The Court award them the costs and expenses incurred in connection with this action, including reasonable attorneys' fees; and
- c. The Court grant such other and further relief as is just and proper.

Dated: New York, New York  
July 21, 2014

HINSHAW & CULBERTSON LLP

By:  

Concepcion A. Montoya (CM-7147)  
Maureen M. Stamp (MS-8453)  
800 Third Avenue, 13th Floor  
New York, NY 10022  
(212) 471-6200 (Phone)  
(212) 935-1166 (Facsimile)

*Attorneys for Defendants*

TO: Henry Beck  
Marissa Beck  
Medical Dynamic Systems, Inc.  
Oasis Professional Management Group, Inc.  
Advanced Professional Marketing, Inc.  
Grill 21 LLC  
Pan De Sal LLC  
Gramercy Group Four LLC  
229 East 21st Street, Suite 1  
New York, New York 10010

John Howley, Esq.  
Law Offices of John Howley  
350 Fifth Avenue, 59th Floor  
New York, New York 10118  
(212) 601-2728